

HOUSE BILL REPORT

HB 2805

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to missing persons.

Brief Description: Expanding provisions relating to missing persons.

Sponsors: Representatives O'Brien, Ericks, Morrell, Miloscia and Green.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/24/06, 1/27/06 [DPS].

Brief Summary of Substitute Bill

- Requires the Washington Association of County Officials to convene a group of various entities to study ways and develop protocols to improve the reporting and investigation of missing persons.
- Requires the Washington State Forensic Investigations Council and other entities to develop training modules that are essential to the effective implementation and use of missing persons protocols.
- Requires the Washington Association of Sheriffs and Police Chiefs to create and maintain a statewide public website for the posting of relevant information regarding missing persons.
- Requires investigating agencies to file a missing person report and collect deoxyribonucleic acid (DNA) samples when a person reported missing has not been found within 30 days of the report or at any time the investigating agency suspects criminal activity to be the basis of the victim being missing.
- Requires the Washington State Patrol to store descriptive information and dental records collected from a missing person in the agency's missing persons database.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson,

Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby, Strow and Williams.

Staff: Yvonne Walker (786-7841).

Background:

In 1985, the Legislature passed legislation that established the Missing Children Clearinghouse. It required the Washington State Patrol (WSP) to establish a Missing Children Clearinghouse which included the maintenance and operation of a toll-free 24-hour telephone hotline. The clearinghouse distributes information to local law enforcement agencies, school districts, the Department of Social and Health Services, and the general public regarding missing children (under the age of 18 years old). The information includes: pictures, bulletins, training sessions, reports, and biographical materials that assist in local law enforcement efforts in locating missing children. The WSP also maintains a regularly updated computerized link with national and other statewide missing person systems and clearinghouses.

Generally, after a report is taken regarding a missing child, local law enforcement agencies must file an official missing person report and enter biographical information into the state's missing person computerized network within 12 hours. However, there is no statutory requirement for law enforcement agencies to timely file a missing persons report for a person over the age of 18 years old and enter such information into a statewide database.

The Washington State Forensic Investigations Council (Council) is a 12 member committee appointed by the Governor to oversee death investigations as part of the state's criminal justice system. The Council authorizes expenditures from the Council's Death Investigations Account for the purpose of assisting local jurisdictions in the investigation of multiple deaths involving unanticipated, extraordinary, and catastrophic events, or involving multiple jurisdictions. The Council also oversees the WSP Bureau of Forensic Laboratory Services (Bureau) and actively prepares and approves the Bureau's budget prior to submission to the Office of Financial Management.

The Bureau provides a wide range of forensic science expertise to city, county, and state law enforcement officers, assisting agencies at crime scenes, preparing evidence for trial, and providing expert testimony. The Bureau coordinates the efforts of the State's Breath Alcohol Test Program, Drug Evaluation and Classification Program, six crime laboratories, the Latent Print Laboratory, and the State Toxicology Laboratory.

Summary of Substitute Bill:

The Legislature finds that there were over 46,000 reports of persons missing nationwide and over 500 missing persons in the State of Washington. The Legislature intends to build upon the past research and findings to aid in the recovery of missing persons and the identification of human remains.

Protocols. The Washington Association of County Officials (WACO), in consultation with the Washington Association of Sheriffs and Police Chiefs (WASPC), the Washington Association of Coroners and Medical Examiners (WACME), the Washington State Forensic Investigations Council (FIC), the WSP, and other interested agencies and individuals, must convene a committee to coordinate the use of the latest technology and science available to improve the: (1) reporting of missing persons, (2) communication within the state and with national databases, (3) dissemination of information to other agencies and the public, and (4) reporting for missing persons and the collection and preservation of evidence.

Protocols established for the investigation of reported missing persons, the identification of human remains, the reporting and the identification of persons missing as the result of major events (i.e., tsunami, earthquake, or terrorism) must be endorsed by the WASPC, the WACO, the WACME, the FIC, and the WSP. These entities must then seek the voluntary adoption of the same protocols by all local law enforcement agencies, coroners, medical examiners, and others charged with locating missing persons or identifying human remains.

Training Modules. The FIC, in cooperation with the WACME, and other interested agencies, must develop training modules that are essential to the effective implementation and use of missing persons protocols. Funds provided in the state's Death Investigations Account may be used for developing the training modules. The training modules must provide training through classes and media that will train and educate small departments or those at remote locations with the least disruption. The modules must include but are not limited to such items as the reporting process, the use of forms and protocols, the effective use of resources, the collection and importance of evidence and preservation of biological evidence, and risk assessment of the individuals reported missing.

Missing Person Website. The WASPC must create and maintain a statewide public website for the posting of relevant information concerning persons reported missing in Washington. The website must contain, but is not limited to the missing person's name, physical description, photograph, and other information that is deemed necessary according to the adopted protocols. This website must allow citizens to more broadly disseminate information regarding missing persons for at least 30 days. However, due to the large number of reports received on persons who are overdue and subsequently appear, the information will be removed from the website after 30 days, unless persons filing the report have notified local law enforcement that the person is still missing.

The WSP must establish an interface with local law enforcement and the WASPC missing persons website, the toll-free 24-hour hotline, and national and other statewide missing persons systems or clearinghouses. Local law enforcement agencies must file an official missing persons report and enter biographical information into the state missing persons computerized network within 12 hours after notification of a missing person's report is received.

The establishment of the WASPC public website for missing persons is null and void unless funded in the Omnibus Appropriations Act.

Filing Reports and DNA Collection. When a person reported missing has not been found within 30 days of the report, or at any time the investigating agency suspects criminal activity to be the basis of the victim being missing, the investigating agency must: (1) file a report, (2) initiate collection of DNA samples from the known missing person, and (3) ask the missing person's family or next of kin to give consent to request the person's dental records.

Biological samples taken for an investigation must be forwarded to the FBI and to the WSP Crime Lab as soon as possible. The investigating agency must then submit the collected DNA samples for nuclear DNA testing to the WSP Crime Laboratory in their jurisdiction, the DNA samples for mitochondrial DNA testing to the FBI, and the dental records to the WSP Missing and Unidentified Persons Unit. In cases where criminal activity is suspected, the WSP must conduct nuclear DNA typing for entry into the state missing person's DNA data base as soon as possible.

The WSP Crime Lab must provide guidance to agencies regarding where samples should be sent and conduct nuclear DNA testing of the biological samples where appropriate. In the event additional testing is required, the mitochondrial DNA testing must be conducted through the FBI. However, priority for testing must be given to active criminal cases. If substantial delays in testing occur or federal testing is no longer available, the Legislature should provide funding to implement mitochondrial technology in Washington.

All descriptive information from missing person's reports and dental data submitted to the WSP Missing Persons and Unidentified Persons Unit must be recorded and maintained by the WSP in the applicable dedicated missing person's databases.

Substitute Bill Compared to Original Bill:

The WACO instead of the WASPC is required to take a lead on convening a group together to study and develop protocols for improving the reporting of missing persons.

Specific time frames are deleted that were originally required for investigating agencies to file a report. Originally, the bill required investigating agencies to file reports within 48 hours of suspecting that criminal activity may be the basis of the victim being missing. The specific time frame for filing a report within 48 hours is deleted.

The WSP is required to store the dental records of a missing person in an applicable database within the agency. Originally, the WSP was required to store both the DNA and dental records collected from a missing person in a database that was separate and distinct from any other DNA databases that the agency maintained. The specific "separate and distinct" language relating to the database is removed.

The specific time frames required for the WSP to forward DNA samples to the FBI were deleted. The original bill required that in cases where criminal activity was suspected, the WSP must immediately conduct nuclear DNA testing of the samples and forward copies of the DNA samples and dental records to the FBI for testing within 72 hours upon receipt of the samples. The specific time frame of 72 hours for forwarding the DNA samples to the FBI is deleted.

The provision that required the DOH to maintain PKU tests of infants for DNA testing in the event the infant requires identification at a later date is deleted.

Other technical amendments were made.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, section 4 (requiring the WASPC to create a statewide missing person website), is null and void unless funded in the budget.

Testimony For: When a person is missing it haunts the family for the rest of their lives until there is some type of closure. This bill was introduced in response to a series of articles called "Without a Trace" that covered missing persons in Washington last year. House Bill 2805 is about preserving the dignity and respect of every individual, including those that are deceased.

The topic of missing persons is not solely limited to a natural disaster. People go missing everyday and are regularly reported to law enforcement. A missing person report will often help to find a loved one but too often reports are never taken. There have been times when the remains of a person is found but unfortunately the person cannot be identified because DNA or other evidence was not preserved.

This bill has several components which are all necessary for having a sophisticated missing person system in the state. The WACO is committed to developing the protocols and training components for investigating agencies. They will ask for voluntary adoption of the protocols from law enforcement agencies, coroners, and medical examiners. In addition, there is already money appropriated out of the Account which can be used for training purposes.

Law enforcement will have the authority to identify between a chronic runaway and a person that is truly missing. The preservation of evidence will help families to have an active role in locating a family member. If we want a system where we can identify individual victims and meet any natural disaster that we may have, then it is necessary to start preserving evidence to identify people in the future.

Testimony Against: None.

Persons Testifying: Representative O'Brien, prime sponsor; Dr. Katherine Taylor, King County Medical Examiner and Washington Association of Coroners and Medical Examiners; Debbie Wilke, Washington Association of County Officials; Greg Sandstrom, Kitsap County Coroner's Office and Washington Association of Coroners and Medical Examiners; Dave Johnson, Washington Coalition of Crime Victims Advocates; Mary Miller, Families and Friends of Missing Persons and Violent Crime Victims; and Robert Berg, Washington Associations of Sheriffs and Police Chiefs and City of Centralia.

Persons Signed In To Testify But Not Testifying: None.